

AMENDED IN ASSEMBLY APRIL 18, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 993

Introduced by Assembly Member Aghazarian

February 22, 2007

An act to amend Sections 1729, 1730, and 1736.1 of, and to add Section 1728.8 to, the Health and Safety Code, relating to home health agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 993, as amended, Aghazarian. State Department of Public Health: licensure: home health agencies.

Existing law requires private or public organizations, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, to obtain a home health agency license before providing or arranging for the provision of skilled nursing services in the home. Existing law provides for licensing of home health agencies by the State Department of Health Services. Existing law gives the department full range of authority over accredited home health agencies to ensure that the licensure and accreditation requirements are met, including the entire scope of enforcement sanctions and options available for unaccredited home health agencies.

Effective July 1, 2007, responsibility for the administration of the above-mentioned provisions will be transferred to the State Department of Public Health.

This bill would *commencing July 1, 2008*, require the department to ~~notify, no later than 60 days after the department receives a new parent, branch, or change of ownership home health agency—applicant application, in writing, that it has received the application, and if applicable, whether and in what form the application contains deficiencies, as specified. The bill would also require the department to~~ *complete the application paperwork*, to conduct a licensure survey, if necessary, and in certain circumstances, *to conduct* an unannounced certification survey in accordance with a specified timeline, as provided. The bill would require the department to forward the results of the certification surveys to the federal Centers for Medicare and Medicaid Services, as specified.

~~The bill would also require the department, if it fails to comply with the above-mentioned specified licensure and certification survey timeline, to reduce the applicant's licensure fees in accordance with a prescribed formula. The bill would permit~~ *require* the department, ~~commencing January~~ *July 1, 2008*, to allow certain organizations to conduct the initial licensure surveys, as permitted by federal law. ~~The bill would also require the department, commencing February 1, 2008, and every February 1 thereafter, to include in its annual report to the Legislature, as required by existing law, information relating to processing home health agency licensure applications, as specified. The~~

~~The bill would require the department to work with the home health industry association and providers to modify restructure home health agency licensing and certification program fees for 2008, based on requirements set forth in the bill the 2008–09 fiscal year.~~

Existing law requires that a home health agency license shall expire 12 months after the date of issuance, and provides for renewal applications to be filed with the department not less than 30 days prior to the expiration date, accompanied by the necessary fees.

This bill would, in addition, require the department to mail a renewal application to all licensees not less than 45 days prior to the expiration date, as specified. ~~The bill would further require the department to make license renewal forms available online to expedite the license renewal process and ensure that providers remain in good standing.~~

Existing law requires an applicant for certification as a certified home health aide to satisfy certain requirements, including to have successfully completed a training program approved by the department pursuant to applicable state and federal regulations. A violation of these provisions is a misdemeanor.

This bill would require the certified home health aide training program to have a minimum of 75 hours or a competency evaluation program equivalent. By changing the definition of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1728.8 is added to the Health and Safety
2 Code, to read:
3 1728.8. (a) ~~Notwithstanding any other provision of this chapter,~~
4 ~~no later than 30 days from the date a new parent, branch, or change~~
5 ~~of ownership home health agency application is received, the~~
6 ~~department shall notify the applicant in writing of its receipt and~~
7 ~~review the application for completeness. If the application is~~
8 ~~incomplete, the department shall notify the applicant of this fact~~
9 ~~in writing, including the identification and form of each deficiency.~~
10 (b)
11 (a) No later than 60 calendar days after the department receives
12 a complete parent, branch, or change of ownership home health
13 agency application, the department shall *complete the application*
14 *paperwork and* conduct a licensure survey, if necessary, to inspect
15 the agency and evaluate the agency's compliance with state
16 requirements. ~~If a licensure survey is not necessary because of the~~
17 ~~type of application or the good standing of the agency in~~
18 ~~accordance with federal requirements, the department shall~~
19 ~~complete the application paperwork no later than 60 calendar days~~
20 ~~after the department receives the application. The department shall~~
21 forward its recommendation, if necessary, and all other
22 information, to the federal Centers for Medicare and Medicaid
23 Services within the same 60 calendar days. ~~No later than 30~~
24 ~~calendar days after the deadline, the department shall notify the~~
25 ~~home health agency, in writing, of the recommendation or action~~
26 ~~taken by the department. days.~~

1 (e)

2 (b) (1) For those applicants seeking to receive reimbursement
3 under the Medicare or Medi-Cal programs, the department shall
4 *complete the application paperwork and* conduct an unannounced
5 certification survey, if necessary, no later than 60 calendar days
6 after the department conducts the licensure survey required by
7 subdivision ~~(b)~~ (a), and after the department's receipt of a letter
8 from the home health agency notifying the department of its
9 readiness for the certification survey from a parent or branch
10 agency, whichever is later.

11 (2) No later than ~~15~~ 30 calendar days after the certification
12 survey, the department shall forward the results of its licensure
13 and certification surveys and all other information necessary for
14 certification to the federal Centers for Medicare and Medicaid
15 Services. ~~If a certification survey is not necessary because of the~~
16 ~~type of application, or the good standing of the agency in~~
17 ~~accordance with federal requirements, the department shall~~
18 ~~complete and forward the application paperwork no later than 60~~
19 ~~calendar days after the department receives the application. No~~
20 ~~later than 30 calendar days after the deadline, the department shall~~
21 ~~notify the home health agency, in writing, of its recommendation.~~
22 ~~Services.~~

23 (d) ~~If the department fails to conduct licensing and certification~~
24 ~~surveys or complete application paperwork in accordance with~~
25 ~~this section, the department shall be considered delinquent in its~~
26 ~~duties, and in which case, the department shall reduce a home~~
27 ~~health agency's licensing and certification program fee, as~~
28 ~~described in subdivision (b) of Section 1266, in accordance with~~
29 ~~the following:~~

30 (1) ~~For a delinquency period of 30 calendar days or less, the~~
31 ~~fees shall be reduced by 10 percent.~~

32 (2) ~~For a delinquency period of 31 to 60 calendar days, inclusive,~~
33 ~~the fees shall be reduced by 20 percent.~~

34 (3) ~~For a delinquency period of 61 to 179 calendar days, the~~
35 ~~fees shall be reduced by 60 percent.~~

36 (4) ~~For all delinquency periods in excess of 180 calendar days,~~
37 ~~the fees shall be waived for one year, and the State Public Health~~
38 ~~Officer shall investigate the cause of the delinquency.~~

1 ~~(e) The department shall give existing home health agency~~
2 ~~providers in good standing priority in licensure applications~~
3 ~~submitted pursuant to this section.~~

4 ~~(f) Commencing January~~

5 ~~(c) Commencing July 1, 2008, the department shall allow~~
6 ~~accrediting organizations approved by the federal Centers of~~
7 ~~Medicare and Medicaid Services to conduct initial licensure~~
8 ~~surveys for home health agencies as permissible under federal law.~~

9 ~~(g)~~

10 ~~(d) This section shall apply to all licensing and certification~~
11 ~~entities, including any county that contracts with the state to~~
12 ~~provide licensing and certification services on behalf of the state.~~

13 ~~(h) Commencing February 1, 2008, and every February 1~~
14 ~~thereafter, the department shall include in its report required under~~
15 ~~paragraph (1) of subdivision (d) of Section 1266 a description of~~
16 ~~the actual amount of staff and time, including number of hours~~
17 ~~and days, necessary to process the different components of home~~
18 ~~health agency licensure applications, including, but not limited to,~~
19 ~~the following information:~~

20 ~~(1) The number of pending home health agency applications in~~
21 ~~terms of initial licensure and certification surveys.~~

22 ~~(2) Any additional surveys necessary to complete licensure and~~
23 ~~certification.~~

24 ~~(3) The number of renewals approved with no survey, with~~
25 ~~changes of ownership, with deemed status, or with established~~
26 ~~new branches.~~

27 ~~(e) This section shall become operative on July 1, 2008.~~

28 SEC. 2. Section 1729 of the Health and Safety Code is amended
29 to read:

30 1729. ~~(a)~~ Each application for a license under this chapter,
31 except applications by the State of California or any state
32 department, authority, bureau, commission, or officer, shall be
33 accompanied by a Licensing and Certification Program fee for the
34 headquarters or main office of the agency and for each additional
35 branch office maintained and operated by the agency in the amount
36 set in accordance with Section 1266. The department shall work
37 with the home health agency industry association and providers
38 to ~~modify~~ *restructure* home health agency licensing and
39 certification program fees for 2008, based on actual workload, and

~~the following categories: in a budget neutral capacity for the 2008-09 fiscal year.~~

- ~~(1) Annual renewal fee for a parent not requiring a survey.~~
- ~~(2) Annual renewal fee for a branch not requiring a survey.~~
- ~~(3) Annual renewal fee for a parent or branch requiring a licensure-only survey.~~
- ~~(4) Annual renewal fee for a parent or branch requiring a certification survey.~~
- ~~(5) Annual renewal fee for deemed status.~~
- ~~(6) Application fee for a new parent that is licensed only.~~
- ~~(7) Application fee for a new parent that is licensed and certified.~~
- ~~(8) Application fee for a new branch.~~
- ~~(9) Application fee for change of ownership.~~

~~(b) The application fee shall supplant the licensing and certification fee for the first year of licensure.~~

SEC. 3. Section 1730 of the Health and Safety Code is amended to read:

1730. (a) Each license issued under this chapter shall expire 12 months from the date of its issuance. Application for renewal of license accompanied by the necessary fee shall be filed with the state department annually, not less than 30 days prior to expiration date. Failure to make a timely renewal shall result in expiration of the license.

(b) (1) At least 45 days prior to the expiration of a license issued pursuant to this chapter, the department shall mail an application ~~for renewal to the licensee that shall include all of the following:~~
for renewal to the licensee.

- ~~(A) A license and facility change form.~~
- ~~(B) A licensee acknowledgment form.~~
- ~~(C) Renewal fee information.~~

(2) Any application for a license renewal shall be submitted with the necessary fee in accordance with subdivision (a). A license shall be deemed renewed upon payment of the necessary fee, commencing from the license's expiration date. If the requirements of this section are met, the department shall issue a license to the agency and its branches by the expiration date of the license to ensure the provider remains in good standing. The agency's license shall be mailed within 30 calendar days after the date the department receives the renewal fee.

1 ~~(e) No later than December 1, 2008, the department shall make~~
2 ~~renewal forms available online, and shall provide the ability to~~
3 ~~verify the status of a home health agency's licensure renewal, to~~
4 ~~expedite the licensure renewal process and ensure that providers~~
5 ~~remain in good standing.~~

6 SEC. 4. Section 1736.1 of the Health and Safety Code is
7 amended to read:

8 1736.1. (a) An applicant for certification as a certified home
9 health aide shall comply with each of the following requirements:

10 (1) Have successfully completed a training program with a
11 minimum of 75 hours or an equivalent competency evaluation
12 program approved by the department pursuant to applicable federal
13 and state regulations.

14 (2) Obtain a criminal record clearance pursuant to Section
15 1736.6.

16 (b) Any person who violates this article is guilty of a
17 misdemeanor and, upon a conviction thereof, shall be punished
18 by imprisonment in the county jail for not more than 180 days, or
19 by a fine of not less than twenty dollars (\$20) nor more than one
20 thousand dollars (\$1,000), or by both fine and imprisonment.

21 SEC. 5. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.